

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOHN DELACRUZ,

Petitioner,

v.

Case No. 05-C-0664

JUDY SMITH,

Respondent.

ORDER SETTING BRIEFING SCHEDULE

On August 3, 2005, this court issued an order requiring the petitioner, John Delacruz (“Delacruz”), to advise the court whether he wished to proceed in this federal habeas action only on his first claim and not on the “unexhausted” claims two through four or, in the alternative, to have this habeas petition dismissed without prejudice so that he might return to state court to exhaust his state court remedies with respect to the afore-stated three unexhausted claims. On August 8, 2005, Delacruz filed with the court a “Traverse to Answer.” In that submission Delacruz states, in pertinent part, as follows:

The petitioner would like to inform this Honorable Court that he would like to dismiss out of the petition the claims set forth at “IV”, Grounds Two through Four, and proceed on the ineffective assistance challenge at “IV”, Ground One.

(Traverse ¶ 3.) In light of the foregoing, the court will issue a briefing schedule with respect only to the petitioner’s claim of ineffective assistance of counsel as set forth in his habeas corpus petition, i.e. Ground One, as he has elected not to proceed on Grounds Two through Four.

NOW THEREFORE IT IS ORDERED that on or before October 3, 2005, the petitioner

shall file his brief in support of his habeas corpus petition;

IT IS FURTHER ORDERED that on or before November 14, 2005, the respondent shall file her brief in opposition to the petition;

IT IS FURTHER ORDERED that on or before December 15, 2005, the petitioner shall file his reply brief.

SO ORDERED this 8th day of August 2005, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge